

### **Remarks**

In the application, claims 1 through 9, 13, and 14 are currently pending. No claims have been allowed.

The Final Office Action dated June 16, 2008, has been carefully considered. Claims 1 through 9 are rejected under 35 U.S.C. § 103(a) as obvious in light of U.S. Patents 6,804,219 (“Koo”) and 6,529,497 (“Hjelm”). Claims 13 and 14 are rejected as obvious in light of Koo, Hjelm, and U.S. Patent Publication 2002/0082033 (“Lohtia”).

### **Amendments to the Claims**

Claims 10 through 12 are cancelled. The language in claims 1 through 7, 13, and 14 is amended for the sake of clarity and to address minor informalities.

No new matter is introduced by these amendments.

### **The § 103(a) Rejection of the Independent Claims**

Hjelm and the presently pending claims are both directed toward keeping a data channel open even after all available data have been sent. The channel is kept open for a while to avoid suffering a delay in re-opening the channel if more data become available to send. In both Hjelm and the presently pending claims, the data channel is kept open in the absence of more data to send for the duration of a timer period.

The Office Action points to Hjelm to supply the element in the presently pending claims of basing the period of the delay timer on the data rate. The Applicants respectfully submit, however, that Hjelm does not teach this.

In the first section of Hjelm pointed to by the Office Action (Hjelm, column 9, lines 53 through 67), Hjelm discusses starting the delay timer when the data rate goes to zero. While this may serve as a definition of when to start the delay timer both for Hjelm and for the presently pending claims, Hjelm here does not discuss the *period* of the timer.

In the second section of Hjelm pointed to by the Office Action (Hjelm, column 10, lines 3 through 6), Hjelm says that delay timers can be set (1) per packet control unit or per cell and (2) dynamically. Hjelm's statement (1) merely says that a multiplicity of delay timers can be used and is therefore irrelevant to the presently pending claims. Hjelm's statement (2) is directed toward the period of the delay timer, but simply stating that a timer may be set "dynamically" does not teach or imply how the timer period should be set.

In another section, Hjelm actually does discuss exactly how to "dynamically" set the period of the delay timer. In Figures 4C through 4E and in the accompanying discussion from column 10, line 64, through column 11, line 67, Hjelm shows that the period of the delay timers can be set based on (a) the load of a regional processor, (b) on the load of a packet control unit, or (c) on the load of cell traffic. These are all different from the data rate, however.

Because Hjelm does not teach that the timer period can be set based on the rate of data transmission and because this element is present in all presently pending independent claims, these claims are patentable over Hjelm and over the other cited art. The pending dependent claims include by reference all of the limitations of their antecedent independent claims and so are patentable for at least the same reasons as given above.

### **The § 103(a) Rejection of the Dependent Claims 13 and 14**

The presently pending claims 13 and 14 discuss keeping a data channel open in the absence of real data to send by sending "dummy" data. The Office Action cites Lohtia as teaching this aspect of the present invention.

However, Lohtia was filed on January 25, 2001, thirteen days *after* the filing date of the present application. Applicants do not understand how Lohtia can be prior art and respectfully request that the rejection based on it be withdrawn.

### **Conclusion**

This application is considered to be in good and proper form for allowance, and the Applicants request that the Examiner pass this application on to issue. If, in the opinion of the

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Examiner, a telephone conference would expedite the prosecution of this application, the Examiner is invited to call the Applicants' representative at the number given below.

Please charge any fees that may be due to Deposit Account 502117, Motorola, Inc.

Respectfully submitted,

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